

**GUIDELINES FOR IMPLEMENTING THE FINAL RULE OF THE
FARMLAND PROTECTION POLICY ACT
FOR HIGHWAY PROJECTS**

**ENVIRONMENTAL ANALYSIS DIVISION
OFFICE OF ENVIRONMENTAL POLICY
FEDERAL HIGHWAY ADMINISTRATION
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FARMLAND PROTECTION

INTRODUCTION

The Farmland Protection Policy Act of 1981 (FPPA or the Act) has as its purpose "to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland." The FPPA called for the US Department of Agriculture (USDA) to develop criteria to identify the effects of Federal programs on the conversion of farmland to nonagricultural uses. Federal agencies are required to use these criteria.

As stated in the "Supplementary Information" section of the Final Rule, "The Act merely requires that before taking or approving any action that would result in conversion of farmland as defined in the Act, the agency examines the effects of the action using the criteria set forth in the rule, and if there are adverse effects, consider alternatives to lessen them."

Applicability: The guidelines set forth in this chapter apply to all federally funded highway projects which require the acquisition of right-of-way, except those which are specifically for national defense purposes.

Compliance with the Rule and implementation of this guidance will normally be accomplished as a part of the National Environmental Policy Act (NEPA) process. In order to be approved by the FHWA, NEPA documents or (where no NEPA document is required) the project file must contain the necessary evidence that the Rule has been followed.

There are certain special situations which have a bearing on applicability because of the FPPA definition of "farmland." Six such situations are listed below. In each case where new right-of-way is necessary for a highway project and USDA Form AD 1006 is not submitted to the Soil Conservation Service (SCS) (in accordance with this guidance), the applicable environmental document developed for the project should summarize the steps taken to identify and evaluate farmland impacts and comply with the FPPA.

1. Land that is clearly not farmland

The FPPA provides protection to "farmland" as defined in the law. Land that is determined not to be farmland in accordance with the statutory definition is not subject to the FPPA. The SCS is developing soil survey maps depicting areas having soil types that could be "farmland." The mapping is nearly completed in those States which have substantial agricultural activity. A review of the SCS maps should be made to determine whether the land needed for a proposed highway will be land of a

soil type that could be "farmland." Where mapping has not yet been completed, this information can be obtained through consultation with the SCS. Where the right-of-way required for a highway project is clearly not farmland (i.e., rocky terrain, sand dunes, etc.) and the project would not indirectly convert farmland, the FPPA does not apply. Completion and processing of Form AD 1006 are not necessary.

2. Urban areas

Prime farmland which is already in or committed to urban development is by definition farmland not subject to the FPPA. Unique farmlands and farmlands of statewide or local importance are, however, subject to the FPPA (even in areas already in or committed to urban development). The SCS has developed maps in each State which delineate prime farmland already in urban development and is developing maps for areas committed to urban development. Where the right-of-way required for a highway project is wholly within a delineated urban area and the project requires no property from unique farmlands, or farmlands of statewide or local importance, the FPPA does not apply. The completion and processing of Form AD 1006 are not necessary.

The delineated urban areas of prime farmland already in or committed to urban development are usually plotted on US Geological Survey 15-minute quadrangle base maps. The SCS advises that although a sufficient number of copies may not be available for distribution, the maps will be made available for use or copying at the SCS State Conservationist's office. Also available (on the same basis) is a list of farmlands of statewide and local importance as defined in the FPPA, and maps of unique farmlands. Arrangements should be made by the State highway agencies (SHAs) to acquire this information from the State Conservationist's office.

3. Linear development

There will be instances where linear development along existing roads is not delineated on the SCS maps discussed in (2) above. If the entire right-of-way for a proposed highway project uses nonfarmland (a soil type not suitable for agriculture) and/or farmland which has already been converted to industrial, commercial, residential, or recreational activity, the FPPA does not apply, and

multi-county, regional, or State impacts should be evaluated with the statewide LESA system. A list of LESA systems within each State that have been placed on the SCS State Conservationist's list as meeting the purpose of the FPPA is available from the State Conservationist's office.

The SCS believes that development and use of LESA systems is the best way to ensure farmland protection while meeting other competing land uses and community goals. Development and adoption of LESA systems are increasing nationally. The SHAs should be encouraged to discuss the status of LESA systems within the State with its Department of Agriculture and, as appropriate, ensure that the highway concerns are incorporated into the LESA systems in the State. The LESA systems can be very useful in reducing unnecessary coordination and paperwork on projects which involve only small amounts of farmland.

5. Borrow areas and disposal sites

The applicability of the FPPA requirements to borrow areas and disposal sites must be based on who is involved in the arrangements for such activities. If the location of borrow areas or disposal sites is directed by the SHA as a part of the Federal-aid project development process, then use of these areas and sites must be in accordance with the FPPA and Final Rule. If the arrangements for borrow areas or disposal sites are not directed by the SHA, then the areas or sites are not subject to the FPPA and Final Rule.

6. Farmland with low potential

Form AD 1006 need not be submitted to the SCS in cases where the site assessment criteria (Part VI) score is less than 60 points for each project alternative. The rationale is based on the SCS regulation (7 CFR 658.4(c)(2)) which provides that "Sites receiving a total score of less than 160 points be given a minimal level of consideration for protection and no additional sites be evaluated." The maximum score that can be assigned to the land evaluation (Part V) is 100 points. Therefore, where the site assessment (Part VI) is less than 60 points, the total score (Parts V and VI) would always be less than 160 points. To document compliance with the SCS regulation, it is only necessary to complete Parts I, III, V (assign 100 points), and VI and place the completed form in the project files. The project environmental document should summarize the steps taken to identify and evaluate farmland impacts and comply with the FPPA.

processing of Form AD 1006 is not necessary. A field observation should be sufficient to determine whether linear development has converted all of the farmland soil types (required for highway right-of-way) to nonagricultural activity.

4. State and local Land Evaluation and Site Assessment (LESA) system

The SCS feels that the FPPA does not permit the SCS regulation to establish threshold levels (below which coordination through use of Form AD 1006 would not be required). The SCS does feel, however, that State and local Governments can develop LESA systems which establish such thresholds. Where a project is located wholly within a jurisdiction having a State or local LESA system that is on the SCS State Conservationist's list as one which meets the purpose of the FPPA, the SCS regulation permits such systems to be used in lieu of the SCS site assessment criteria (Part VI of Form AD 1006).

A LESA system may assign a zero value to the site-assessment criteria (Part VI) for projects on existing location when only small amounts of farmland are being converted. For example, the State of Illinois' LESA system establishes a threshold of 3 acres per mile for linear corridors and 10 acres for a localized site, i.e., bridge or interchange project. A zero value means that the highway project is consistent with the intent of the farmland protection policies which the LESA system is to implement. If a zero value is assigned in Part VI, the SCS advises that Form AD 1006 need not be submitted to the SCS. To document compliance with the SCS regulation, the SHA need only complete Parts I, III, V, and VI of Form AD 1006 and place the completed form in the project files. The value to be used for Part V is 100 and Part VI is zero.

If (pursuant to the LESA system) any of the site assessment (Part VI) totals exceed 59, Parts I and III of Form AD 1006 must be completed and the form submitted to the SCS. If these totals for all the alternatives are less than 60, the form does not have to be submitted to the SCS since the total value in each case would be less than 160. (See Section 658.4(c) of the Rule.)

When using a LESA system, it is necessary to ensure that the appropriate system is used. In cases where LESA systems exist at both the State and local levels, the local LESA system should be used to evaluate proposed projects under the FPPA. However, proposed projects with

Definitions: "Farmland," as used in the Final Rule and in these guidelines, refers to land in any of four different categories: (1) prime farmland; (2) unique farmland; (3) farmland other than prime or unique that is of statewide importance; or (4) farmland other than prime or unique that is of local importance.

Prime farmland does not include land already in or committed to urban development or water storage. All other farmlands (those of statewide or local importance, or unique) are covered by the Rule. See Section 658.2(a) of the Rule.

A "site" for the Federal-aid highway program is one alternative alignment. It should be noted that the definition of "site" includes areas that would be converted both directly and indirectly by the proposed action. Direct conversions are those that would be included in right-of-way. Indirect conversions include the acres remaining in a tract which is partially taken for right-of-way which (1) would no longer be capable of being farmed because the project would restrict access; or (2) would likely be converted because of accessibility to a new highway. Where a given alignment has more than one design alternative, each design should be considered as an alternative site if the different designs would result in substantially different impacts on farmland. If, after coordination with the SCS, there are design changes which would result in substantially different impacts on farmland, then coordination with the SCS should be reopened.

Coordination: While the Final Rule specifies steps that Federal agencies must take to comply with the farmland protection process, in the case of Federal-aid highway projects the SHA will normally be doing the actual coordination with the USDA through the SCS. The FHWA remains ultimately responsible for compliance, however.

Except as specified in the "Applicability" section of these guidelines, the procedure is as follow:

1. If any project alternative(s) requires the acquisition of right-of-way, and if the project is not exempt, the SHA should complete Parts I and III of Form AD 1006. Instructions for processing Form AD 1006 are on the reverse side of the form.
2. The SHA will send copies A, B, and C (or three reproduced copies) of Form AD 1006, together with maps indicating locations of alternatives, to the SCS local field office serving the proposed project. (For a multi-county project, forms and maps will be sent to the SCS State office.)
3. In cases where farmland, as defined by the FPPA, is identified and will be converted by the proposed project, SCS field offices will complete Parts II, IV, and V of the form. If the FPPA does not apply, this will be indicated in Part II of the form. The SCS, in either case, will return copies A and B (or two reproduced copies) to the SHA. If the FPPA does not apply, the project file is documented and compliance is complete.

The SCS will provide information on whether the proposed alternative site(s) meets the definition of farmland (Part II), and, if so, it will evaluate the farmland using the land evaluation criteria (Part V). Where a cooperative soil survey already exists, the SCS will use this in its evaluation. Where a cooperative soil survey does not exist, the determination will be based on other acceptable soil surveys of the sites. The SCS determinations will be made within 45 calendar days of the receipt by the SCS of written requests on Form AD 1006.

In the event that the SCS fails to complete its response within 45 days and if further delay would interfere with construction, the project may proceed as though the FPPA did not apply. "Construction" for these purposes is defined as involving a physical change of the environment. (This is a more narrow definition of construction than is contained in Title 23.) In these cases, however, it is still necessary to consider impacts to farmland in order to comply with NEPA requirements. The project environmental document should identify the farmland impacts and mitigation measures and summarize the coordination undertaken with the SCS. The environmental document should also include a statement that (1) the SCS failed to provide the land evaluation information within 45 days, and (2), therefore, in accordance with the SCS regulation (7 CFR 658.4(a)), the FPPA does not apply.

4. If the FPPA applies, Parts VI and VII will be completed by the SHA. Note that the provisions of Section 658.5(c) should be followed for highway projects. This modification was added to the Rule to recognize the special characteristics of corridor or linear projects, including highways.

In Parts II and VII and in the instructions for Parts VI and VII of Form AD 1006, "local site assessment" refers to possible State or local Government systems to assess the productivity of agricultural land and its suitability for conversion to nonagricultural use. Where sites are to be assessed within a jurisdiction having a State or local LESA system that has been placed on the State Conservationist's list as one which meets the purpose of the FPPA, then that system should be used (and Part VI is omitted). This will help determine whether the proposed action is, to the extent practicable, compatible with State or unit of local Government programs and policies to protect farmland, as required by the Act. If such a State or local system exists, it will be so indicated in Part II of Form AD 1006. The site assessment score from that system, converted to a 160-point base, should be recorded in Part VII. See instructions for Part VII.

In the second paragraph of the instructions for Part VI, relative weights other than those shown in the FPPA Rule will not be used.

5. After the above coordination is completed, a determination should be made on whether or not to proceed with farmland conversion, in accordance with Section 658.4(c) of the Rule. The decision shall consider the impacts of farmland conversion along with other environmental considerations and project need. The final decision on alternative analysis and mitigation shall be coordinated by the SHA with the FHWA Division Administrator.

Documentation: A copy of the completed Form AD 1006 and a summary of the various steps of the farmland protection processing, including the final decision, should be included in the applicable environmental document. Any measures planned to reduce the amount of farmland impacts should also be included. Applicable categorical exclusion projects (those which require right-of-way and are not exempt) should be documented in the project file.

U.S. Department of Agriculture

FARMLAND CONVERSION IMPACT RATING

PART I (To be completed by Federal Agency)		Date Of Land Evaluation Request	
Name Of Project		Federal Agency Involved	
Proposed Land Use		County And State	
PART II (To be completed by SCS)		Date Request Received By SCS	
Does the site contain prime, unique, statewide or local important farmland? (If no, the FPPA does not apply - do not complete additional parts of this form).		Yes <input type="checkbox"/>	No <input type="checkbox"/>
Major Crops	Farmable Land In Govt. Jurisdiction Acres: %	Acres Irrigated	Average Farm Size
Name Of Land Evaluation System Used	Name Of Local Site Assessment System	Amounts Of Farmland As Defined in FPPA Acres: %	
		Date Land Evaluation Returned By SCS	
PART III (To be completed by Federal Agency)		Alternative Site Rating	
		Site A	Site B
A. Total Acres To Be Converted Directly			Site C
B. Total Acres To Be Converted Indirectly			Site D
C. Total Acres In Site			
PART IV (To be completed by SCS) Land Evaluation Information			
A. Total Acres Prime And Unique Farmland			
B. Total Acres Statewide And Local Important Farmland			
C. Percentage Of Farmland In County Or Local Govt. Unit To Be Converted			
D. Percentage Of Farmland In Govt. Jurisdiction With Same Or Higher Relative Value			
PART V (To be completed by SCS) Land Evaluation Criterion			
Relative Value Of Farmland To Be Converted (Scale of 0 to 100 Points)			
PART VI (To be completed by Federal Agency)		Maximum Points	
Site Assessment Criteria (These criteria are explained in 7 CFR 658.5(b))			
1. Area in Nonurban Use			
2. Perimeter In Nonurban Use			
3. Percent Of Site Being Farmed			
4. Protection Provided By State And Local Government			
5. Distance From Urban builtup Area			
6. Distance To Urban Support Services			
7. Size Of Present Farm Unit Compared To Average			
8. Creation Of Nonfarmable Farmland			
9. Availability Of Farm Support Services			
10. On-Farm Investments			
11. Effects Of Conversion On Farm Support Services			
12. Compatibility With Existing Agricultural Use			
TOTAL SITE ASSESSMENT POINTS		160	
PART VII (To be completed by Federal Agency)			
Relative Value Of Farmland (From Part V)		100	
Total Site Assessment (From Part VI above or a local site assessment)		160	
TOTAL POINTS (Total of above 2 lines)		260	
Site Selected:		Date Of Selection	
Reason For Selection:		Was A Local Site Assessment Used? Yes <input type="checkbox"/> No <input type="checkbox"/>	

UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)

RESPONSES TO FHWA COMMENTS

Compatibility with Private Programs and Policies: A definition has been added which clarifies this. See Section 658.2(e) of the Rule.

Highways for Defense Programs: While the Act exempts the use of Farmland for national defense purposes, the USDA did not agree that the National System of Interstate and Defense highways should be included in this exemption. See paragraph 5 on page 27721 of the Federal Register.

Retroactivity: While the Act specifies that its effective date is 6 months after enactment, i.e., June 22, 1982, the USDA has taken the position that the provisions of the Final Rule apply to actions taken on and after the effective date of the Rule, August 6, 1984. See paragraph 1 on page 27720 of the Federal Register, and Section 658.2(c) of the Rule. Also see the "Applicability" section of the attached guidelines.

Assessments of "Parcels": A section has been added which provides for assessments of "corridor-type" sites; i.e., only one assessment will be required for each alternative alignment. Where a given location has more than one design alternative, each design should be considered an alternative site. See Sections 658.5(b) and (c) of the Rule.

Dropping of "Site Assessment Criteria" from Rule: The USDA contends that this system is a useful technique. It is keeping it, with modifications, notably the ones dealing with corridors. See Sections 658.5(b) and (c) of the Rule.

Inclusion of Farmland Protection Under NEPA: The USDA says this is fine, except that categorical exclusions are not exempt. See page 27717, third column, of the Federal Register, and Section 658.4(e) of the Rule.

"Thresholds" for Implementation: The Act does not provide for these, so the only exemption is for highways built specifically for national defense purposes. The National System of Interstate and Defense Highways is not included in this exemption. See paragraph 5, page 27721, of the Federal Register.

Economic Impact of \$100 Million: The USDA did not agree with the FHWA contention that there could be an economic impact exceeding this amount. See paragraph 2, page 27718, of the Federal Register.

STEPS IN THE PROCESSING THE FARMLAND AND CONVERSION IMPACT RATING FORM

Step 1 — Federal agencies involved in proposed projects that may convert farmland, as defined in the Farmland Protection Policy Act (FPPA) to nonagricultural uses, will initially complete Parts I and III of the form.

Step 2 — Originator will send copies A, B and C, together with maps indicating locations of site(s), to the Soil Conservation Service (SCS) local field office and retain copy D for their files. (Note: SCS has a field office in most counties in the U.S. The field office is usually located in the county seat. A list of field office locations are available from the SCS State Conservationist in each state).

Step 3 — SCS will, within 45 calendar days after receipt of form, make a determination as to whether the site(s) of the proposed project contains prime, unique, statewide or local important farmland.

Step 4 — In cases where farmland covered by the FPPA will be converted by the proposed project, SCS field offices will complete Parts II, IV and V of the form.

Step 5 — SCS will return copy A and B of the form to the Federal agency involved in the project. (Copy C will be retained for SCS records).

Step 6 — The Federal agency involved in the proposed project will complete Parts VI and VII of the form.

Step 7 — The Federal agency involved in the proposed project will make a determination as to whether the proposed conversion is consistent with the FPPA and the agency's internal policies.

INSTRUCTIONS FOR COMPLETING THE FARMLAND CONVERSION IMPACT RATING FORM

Part I: In completing the "County And State" questions list all the local governments that are responsible for local land use controls where site(s) are to be evaluated.

Part III: In completing item B (Total Acres To Be Converted Indirectly), include the following:

1. Acres not being directly converted but that would no longer be capable of being farmed after the conversion, because the conversion would restrict access to them.
2. Acres planned to receive services from an infrastructure project as indicated in the project justification (e.g. highways, utilities) that will cause a direct conversion.

Part VI: Do not complete Part VI if a local site assessment is used.

Assign the maximum points for each site assessment criterion as shown in §658.5(b) of CFR. In cases of corridor-type projects such as transportation, powerline and flood control, criteria #5 and #6 will not apply and will be weighted zero, however, criterion #8 will be weighted a maximum of 25 points, and criterion #11 a maximum of 25 points.

Individual Federal agencies at the national level, may assign relative weights among the ¹²~~13~~ site assessment criteria other than those shown in the FPPA rule. In all cases where other weights are assigned, relative adjustments must be made to maintain the maximum total weight points at 160.

In rating alternative sites, Federal agencies shall consider each of the criteria and assign points within the limits established in the FPPA rule. Sites most suitable for protection under these criteria will receive the highest total scores, and sites least suitable, the lowest scores.

Part VII: In computing the "Total Site Assessment Points", where a State or local site assessment is used and the total maximum number of points is other than 160, adjust the site assessment points to a base of 160. Example: if the Site Assessment maximum is 200 points; and alternative Site "A" is rated 180 points:
Total points assigned Site A = $180 \times 160 = 144$ points for Site "A."

Maximum points possible 200